IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 487 OF 2006

Maonohar Dhaku Chavan. .. Petitioner.

vs.

Premier Limited & Ors. .. Respondents.

Mr. A.L. Latnekar & M. Vijaykumar for petitioner.

Mr. Santosh Shetty for respondents 1 & 2.

CORAM : S.U. KAMDAR, J.

DATE : 2nd May, 2006.

P.C.:

. I have heard the learned counsel for the petitioner in support of the writ petition. The present petition is challenging the order dated 6.10.2005 passed on an application for condonation of delay (ULP) No. 30 of 2005. The said application is rejected by the impugned order. The case of the petitioner is that the petitioner was originally working with Walchandnagar Industries. He was transferred to Premier Automobiles Ltd., in 1988. Under clause 4 of the said transfer letter he was told that all existing scales and grades will be replaced by the scales and grades in force at the

Machine Tool Division of the Premier Automobile Limited and he will be entitled to all settlements and benefits as entered into with the workers of Premier Automobiles Limited. It is his case that the workers were extended benefits in 1988, 1992 and 1995. The last benefits were extended in 1995 and these benefits are not extended to the petitioner herein and thus the company has committed unfair labour practice. However, in place of filing a complaint under MRTU & PULP Act he preferred a proceedings under Section 33C(2) of the Industrial Disputes Act and the matter ultimately culminated in a dismissal of his application by an order dated 11.11.2005 passed by this Court in Writ Petition No. 1674 of 2005 and it is thereafter that he has preferred a complaint under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as the MRTU & PULP Act, 1971) on 22.8.2005.

2. However, there is no dispute that in the meantime on 10.6.1999 the petitioner's services stood terminated by virtue of his accepting the voluntary retirement scheme of the company and thus he ceased to be in the employment of the respondent company. Thus there is no master-servant relationship at all as on the date of the complaint under MRTU & PULP Act. In that view of the matter, the proceedings under the MRTU & PULP Act, 1971 is

totally misconceived and not maintainable. It is settled law that for a proceeding to be maintainable under the MRTU & PULP Act, 1971 there must exist a master-servant relationship as a condition precedent. In the present case, having accepted voluntary retirement, there is no master-servant relationship at all and, therefore, the Industrial Court has rightly rejected the application.

3. The last submission advanced by the learned counsel for the petitioner for calculation of a time table in prosectuion of S. 33C (2) application also can not be accepted ebcause for claiming the benefits of the 1995 settlement proceedings are filed under the MRTU & PULP Act, 1971 only in 2005. The time taken on a misconceived proceedings under Section 33 C (2) in the aforesaid circumstances cannot be excluded for the purpose of benefits to be extended to the petitioner or for grant of condonation of delay under Section 5 of the Limitation Act. In that light of the matter, the order passed by the Industrial Court is perfectly legal and valid and does not call for any interference. Writ Petition accordingly fails and the same is dismissed. No order as to costs.